

## The Core in Context

By

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In interpreting statutes, the federal courts have developed a number of well-recognized canons of statutory construction. One important canon is that words should be considered in the context of the entire statute.<sup>1</sup> An example of the application of this canon can be demonstrated through a brief exegesis of 10 U.S.C. § 2464, the core logistics statute. In 1984, Congress enacted the requirement for core logistics to maintain a government capability “to ensure effective and timely response to mobilization, national defense contingency situations, and other emergency requirements.”<sup>2</sup> This provision was codified in 1988,<sup>3</sup> as section 2464 of title 10, United States Code. Substantial changes to section 2464 were made in 1997.<sup>4</sup> Essentially, with a minor revision, this is the current version of section 2464.<sup>5</sup>

Section 2464 of title 10, United States Code addresses the statutory requirement for the services to maintain an organic industrial base capable of providing depot-level maintenance support of DOD weapon systems or equipment deemed critical to Joint Chiefs of Staff (“JCS”) contingency scenarios. As a framework for statutory interpretation, section 2464 can be viewed as establishing a requirement along with a description of the means to satisfy that requirement. This is a contextual interpretation – the clear meaning of the terms in the statute is to be understood in light of the overall purposes of the act.<sup>6</sup> The requirement is simply stated: selected organic logistics capabilities to support military missions are essential to the national defense.<sup>7</sup> The essential logistic capability is the depot maintenance of items.<sup>8</sup> To satisfy this requirement, the Secretary of Defense is assigned two tasks. First, the Secretary is to identify the logistics capability to be maintained.<sup>9</sup> Several factors seem implicit in this particular task. At the outset, there is no need to maintain all weapon systems in public

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<sup>1</sup> See *United States v. Cleveland Indians Baseball Co.*, 532 U.S. 200, 217 (2001).

<sup>2</sup> Section 307 of Public Law 98-525; 98 Stat. 2492, 2514-2515 (1984).

<sup>3</sup> Section 2 of Public Law 100-370; 102 Stat. 840, 851-854 (1988).

<sup>4</sup> Section 356 of Public Law 105-85; 111 Stat. 1629, 1694-1695 (1997).

<sup>5</sup> A change to subsection (c) was made in 1998. See section 349 of Public Law 105-261; 112 Stat. 1920, 1976 (1998).

<sup>6</sup> See 2A *Sutherland, Statutes and Statutory Construction* § 46:05, at 154 (6<sup>th</sup> ed. 2000) (“A statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent. Consequently, each part or section should be construed in connection with every other part or section so as to produce a harmonious whole.”)

<sup>7</sup> 10 U.S.C. § 2464(a) (1) (“... a core logistics capability ... necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.”)

<sup>8</sup> This is evident from the deletion by Congress of the word “distribution” from a precursory statute - - section 1231 of Public Law 99-145, 99 Stat. 583, 731-733 (1985). See H.R. CONF. REP. No 99-235 at 479, *reprinted in* 1985 U.S.C.C.A.N. 472, 635. 10 U.S.C. § 2460 defines “depot-level maintenance and repair” for purposes of Chapter 146 of title 10, United States Code, which includes section 2464.

<sup>9</sup> 10 U.S.C. § 2464(a) (2).

facilities.<sup>10</sup> Similarly, certain weapon systems are excluded from this statutory organic logistics capability -- such as “systems and equipment under special access programs, nuclear aircraft carriers, and commercial items.”<sup>11</sup> In this process of identification, the Secretary is to select only those organic logistics capabilities necessary to maintain weapon systems required to perform JCS strategic and contingency missions.<sup>12</sup> Finally, the Secretary is to assign sufficient workload to maintain this selected organic logistics capability in peacetime.<sup>13</sup> Sufficient workload may include additional non-core work to ensure that the organic operation is efficient and cost effective.<sup>14</sup>

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<sup>10</sup> See H.R. CONF. REP. No 105-340 at 714, *reprinted in* 1997 U.S.C.C.A.N., 2251, 2500. (The provision does not require that maintenance for all weapon systems necessary for the execution of DOD strategic and contingency plans be performed at public facilities.”) The legislative history stated for section 356 of Public Law 105-85.

<sup>11</sup> 10 U.S.C. § 2464(a) (3).

<sup>12</sup> *Id.* (“The core logistics . . . as necessary to enable the armed forces to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff under section 153(a) of this title.”)

<sup>13</sup> See H.R. CONF. REP. No 105-85 at 715, *reprinted in* 1997 U.S.C.C.A.N., 2251m 2501. (“The conferees recognize that an efficient operation that preserves this surge capability does not require more than a single work shift at the depots during peacetime.”). The minimum organic capacity requirement could also be described as the minimum peacetime staffing level that could meet JCS mission surge requirement during combat operations.

<sup>14</sup> 10 U.S.C. § 2464(a)(4).